

FILED

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

IN THE MATTER OF THE)	
§2703(d) ORDER RELATING TO)	MISC. NO. 10GJ3793
TWITTER ACCOUNTS:)	No. 1:11DM3 (Judge Buchanan)
WIKILEAKS, ROP_G; IOERROR;)	
AND BIRGITTAJ)	UNDER SEAL

**GOVERNMENT'S RESPONSE TO
TWITTER, INC.'S MOTION FOR CLARIFICATION**

The United States of America, by and through Neil H. MacBride, United States Attorney, Eastern District of Virginia, and John S. Davis and Andrew Peterson, Assistant United States Attorneys, responds as follows to Twitter, Inc.'s Motion for Clarification, filed February 8, 2011:

1. In an Order entered December 14, 2010 (the Order), pursuant to 18 U.S.C. § 2703(d), this Court directed Twitter, Inc., to provide to the government within three days of the Order certain non-content records relating to four Twitter accounts: Wikileaks; rop_g; ioerror; and birgittaj.

2. On January 5, 2011, this Court unsealed the Order, and authorized Twitter to disclose it to its subscribers and customers. Twitter did so on or about January 7, 2011. In its notice to users, as reflected in Exhibit 3 to the Subscribers' subsequent motion to vacate the Order, Twitter advised that it would respond to the Order within ten days unless it received notice from the user that a motion to quash the Order had been filed or that the matter had otherwise been resolved.

3. The parties further agreed that subscribers and customers would have until January 26, 2011, to file any objections to the Order. In response to Twitter's request that the government confirm its agreement that Twitter need not produce records until the Court ruled on any such

motions, the government advised that absent objections, it expected compliance with the Order by January 26, 2011.

4. On January 26, 2011, persons associated with three of the identified Twitter accounts (Rop Gonggripp, associated with rop-g; Jacob Appelbaum, associated with ioerror; and Birgitta Jonsdottir, associated with birgittaj) appeared through counsel and moved to vacate the Order and unseal records. A hearing on their motions is scheduled for February 15, 2011.

5. However, to date no subscriber or customer associated with the fourth Twitter account, Wikileaks, has appeared or objected to the Order.

6. Further, to date Twitter has not produced to the government any of the records identified in the Order.

7. Twitter now seeks clarification from the Court “as to whether it would best serve the interests of justice for Twitter to withhold production of records for the Wikileaks Twitter account until the pending motions are resolved, or to produce the Wikileaks records forthwith.” (Mot. Clarification at 2.)

8. The government requests that Twitter be directed to produce forthwith the identified records for the Wikileaks account. The subscriber or customer associated with that account has presumably been notified of the Order and chosen not to contest it. There is therefore no basis for further delay in Twitter’s compliance with that portion of the Order. Although subscribers for the other three accounts have objected to Twitter’s producing records for their accounts, those subscribers have no standing to object to Twitter’s producing records for the Wikileaks account. That records pertaining to the Wikileaks Twitter account may potentially show connections between that account and the three others is irrelevant. The three subscribers have not claimed

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Objection was filed with the Clerk of the Court on February 10, 2011, and a copy of this filing was e-mailed to opposing counsel at the following addresses:

/s/

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